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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,230	03/01/2005	Kenzo Ogata	265908US23PCT	6458

22850 7590 11/24/2008

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EXAMINER	
CHAPMAN, MARK A	

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
11/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/526,230	OGATA ET AL.	
	Examiner	Art Unit	
	Mark A. Chapman	1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 October 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,5,6,8-15 and 19-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5,6,8-15 and 19-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 5, 6, 8-15, and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanikawa (5,364,722). Tanikawa (claims and figures) teaches an electrostatic developer that includes a similar hydrocarbon wax with the same relationship of endotherms determined by differential scanning calorimetry. Tanikawa directly suggests that the wax a has predetermined and predictable crystallinity (col. 8 lines 56- col. 9 line 6). It would have been obvious to one of ordinary skill in the art that the same crystallinity and branching would be present in the wax because of the similarities in the produced endotherms and performance of the developer as exhibited by the stability and fixability (col. 3).

2. Claims 1, 5, 6, 8-15, and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanikawa (5,364,722) as applied to claims 1-20 above, and further in view of Terauchi (6,733,941). Tanikawa is discussed above. In addition, Terauchi (col. 3) teaches the well known use of similar waxes with similar crystallinity that are specifically linear. It would have been obvious to one of ordinary skill in the art that the same crystallinity and branching would be present in the wax used by Tanikawa and Terauchi because of the similarities in the produced endotherms and performance of

the developers as exhibited by the stability and fixability of each referenced wax used in similar developers (col. 3) with the expectation of similar beneficial results due to the wax component of the developer.

Response to Arguments

3. Applicant's arguments filed 10-7-08 have been fully considered but they are not persuasive. Applicant argues that Tanikawa does not teach a wax with the same endotherms and that the examples of Tanikawa teach away from the instantly claimed invention. As previously discussed, the primary and secondary endotherms are clearly taught by Tanikawa (claim 1). The secondary considerations argument of Tanikawa teaching away from the instant invention is not convincing. The differences in the wax characteristics of the instant invention are that they are a narrower range but still encompassed by Tanikawa. The examples and comparative examples of Tanikawa are specifically drawn to the differences in peak temperature of endotherms and not comparative to the instant invention. In view of the "teaching away", it still would have been obvious to one of ordinary skill in the art to use a wax in toner applications within the claimed ranges specifically taught by Tanikawa. In looking at the instant specification, only one inventive example is presented and the instant comparative examples do not disclose any endothermic chararcteristics.

Conclusion

4. This is a RCE of applicant's earlier Application No. 10/526,230. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had

been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Chapman whose telephone number is 571-272-1381. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Chapman/
Primary Examiner
Art Unit 1795

/M. A. C./
Primary Examiner, Art Unit 1795